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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

MAR 26 2004

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.202(b))	
Table of Allotments)	MM Docket No. 01-135
FM Broadcast Stations)	RM-10154
(Caliente, Amargosa Valley, Bunkersville,)	RM-10327
Laughlin, Logandale and)	RM-10326
Moapa, Nevada, Mohave Valley,)	
Arizona, Tecopa, California,)	
Escalante, Kanab and St. George, Utah))	
)	

To: Office of the Secretary
Attn: Assistant Chief, Audio Division
Media Bureau

SUPPLEMENT TO JOINT MOTION TO SEVER
AND REQUEST FOR EXPEDITED ACTION

Marathon Media Group, L.L.C. ("Marathon"), licensee of Station KPLD(FM) (formerly KONY(FM)), Kanab, Utah, Marvin Kent Frandsen ("Frandsen"), licensee of Station KZHK(FM), St. George, Utah, and M&M Broadcasting, LLC ("M&M"), licensee of Station KADD(FM), Laughlin, Nevada by their respective counsel, hereby supplement their Joint Motion to Sever and Request for Expedited Action filed on June 13, 2003 (the "Joint Motion"). The Joint Motion requested the Commission to (i) sever the three proposals in this proceeding into two groups as more particularly described therein, and (ii) expeditiously process those proposals that are ripe for decision. The purpose of this Supplement is to report a recent development that may assist in the processing of one of the three proposals, as particularly described herein.

1. This proceeding originated with a petition for rule making to allot Channel 291C2 at Caliente, Nevada (the "Caliente Petition"). The *Notice of Proposed Rule Making* was issued

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on June 22, 2001. 16 FCC Rcd 12722 (2001). Marathon, Frandsen, and M&M filed counterproposals, which were placed on public notice on October 5, 2001 and on October 23, 2001 (corrected) (Report No. 2506) (respectively, the "Marathon Counterproposal" and the "Frandsen-M&M Counterproposal").

2. The Marathon Counterproposal proposed to relocate Station KPLD from Kanab, Utah to Moapa, Nevada. Several other changes were proposed, including the substitution of Channel 291C1 for Channel 266C1 at Amargosa Valley, Nevada. The Amargosa Valley allotment conflicted with the Caliente Petition. However, Marathon demonstrated that an alternate channel, Channel 299C2, was available for allotment at Caliente to satisfy the petitioner's interest in a second local service to that community.

3. In the Frandsen-M&M Counterproposal, Frandsen and M&M proposed to relocate Station KZHK from St. George, Utah to Bunkerville, Nevada, and to relocate KADD from Laughlin, Nevada to Logandale, Nevada. Several other changes were proposed, including the substitution of Channel 291C2 for Channel 228C2 for Station KSNM at St. George, Utah. The St. George allotment conflicted with the Caliente Petition. However, the same alternate channel proposed in the Marathon Counterproposal, Channel 299C2, works at Caliente in harmony with the Frandsen-M&M Counterproposal.

4. The Marathon and Frandsen-M&M Counterproposals are not in conflict with each other. Accordingly, no issue is presented that would require a comparison of one proposal against another, and all three proposals presented in this proceeding can be granted together. However, as Marathon, Frandsen and M&M stated in the Joint-Motion, the Commission's decision in *Pacific Broadcasting of Missouri LLC, Memorandum Opinion and Order*, 18 FCC Rcd 2291 (2003) ("*Pacific-Refugio*"), *recons. pending*, is expected to cause a delay in this

proceeding. Specifically, the *Pacific-Refugio* decision may have made Marathon's proposal for the allotment of Channel 270C2 at Kanab to avoid depriving that community of its only local service, a so-called backfill allotment, no longer a legally viable proposal.

5. However, a recent development may assist in the processing of the Marathon Proposal. Specifically, on January 30, 2004, Opp Broadcasting Co., Inc. ("Opp Broadcasting"), licensee of Station WAMI(AM) filed a major change application with the Commission to change the community of license of Station WAMI(AM) from Opp, Alabama to Kanab, Utah (the "Opp Broadcasting Application"). See CDBS-20040130BHZ. If the Opp Broadcasting Application is granted by the Commission, Kanab will be served by Station WAMI(AM) and thereby not be deprived of its only local service.¹ Therefore Marathon requests that the Commission consider its proposal in conjunction with the Opp Broadcasting Application.

6. There is precedent for the Commission to consider a proposal in conjunction with a major change application. See *Marion and Johnston City, Illinois*, 18 FCC Rcd 15346 (2003) ("*Marion*"). In that case, Clear Channel Broadcasting Licenses, Inc. ("Clear Channel") filed a major change application with the Commission to change the community of license of WHTE(AM) from Johnston City, Illinois to Berwyn, Illinois (the "Clear Channel Application"). In order to ensure that this relocation did not deprive Johnston City of local service, Clear Channel filed a proposal requesting to change the community of license of WDDD-FM from Marion, Illinois to Johnston City, Illinois. In *Marion*, the Commission granted Clear Channel's request to change the community of license of WDDD-FM from Marion, Illinois to Johnston City, Illinois stating that "the Commission routinely allows allotment 'backfills' by existing stations to preserve local service." *Id* at 15348. In a separate action, taken on the same day, the

¹ A preliminary review of the AM major change applications that were recently entered into the Commission's CDBS data base reveal that with a minor amendment, there are no conflicting AM applications.

Commission granted the Clear Channel Application to change the community of license of WHITE(AM) from Johnston City, Illinois to Berwyn, Illinois. *See* BMAP-20010719AAN. These two proceedings were coordinated and granted at the same time specifically to avoid depriving a community of its only local service where the overall arrangement was found to be in the public interest.

7. Here, the Commission is faced with the same situation. In order to provide Moapa with a first local service, the Marathon Counterproposal and the Opp Broadcasting Application need to be considered in conjunction with each other to ensure that the community of Kanab will not be deprived of its only local service. In that regard, Opp Broadcasting specifically filed to serve Kanab pursuant to a contractual understanding with Marathon. Thus, Opp Broadcasting is committed to serving Kanab and desires to have its application coordinated with this FM proceeding. Attached as Exhibit A is Opp Broadcasting's statement to the foregoing.


8. Marathon, Frandsen and M&M reiterate that the Commission should sever and process the Frandsen-M&M Counterproposal and the Caliente Petition (with the alternate channel), because those two proposals can be processed immediately and independently. Nothing stands in the way of their immediate grant. Additionally, the Marathon Counterproposal should be considered in conjunction with the Opp Broadcasting Application because that application will assist in retaining local service at Kanab.

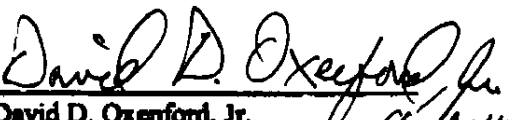
WHEREFORE, for the foregoing reasons, the Commission should sever the Caliente Petition and the Frandsen-M&M Counterproposal from the Marathon Counterproposal and should consider the Marathon Counterproposal in conjunction with the Opp Broadcasting Application.

Respectfully submitted,


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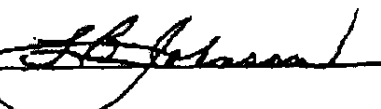
EXHIBIT A

File No. CDBS-200040130BHZ
Application for Major Change
WAMI(AM), Opp, Alabama

Opp Broadcasting Co., Inc. ("Opp Broadcasting"), filed a major change application with the Commission on January 30, 2004 (File No. CDBS-200040130BHZ) to change the community of license of Station WAMI(AM) from Opp, Alabama to Kanab, Utah. Opp Broadcasting hereby states that it filed this application pursuant to a contractual understanding with Marathon Media Group, L.L.C. ("Marathon"). Specifically, Opp Broadcasting agreed to change the community of license of Station WAMI(AM) from Opp, Alabama to Kanab, Utah in order to facilitate Marathon's move of Station KPLD(FM) from Kanab, Utah to Moapa, Nevada (the "Marathon FM Proceeding"). Opp Broadcasting is committed to serving Kanab and desires to have its application coordinated with the Marathon FM Proceeding. Opp Broadcasting understands that this statement may be used in a filing with the Federal Communications Commission and hereby authorizes its use for that purpose.

I verify that this statement is true and accurate to the best of my knowledge, information and belief and is made in good faith.

Opp Broadcasting Co., Inc.

By: 
Its: President

CERTIFICATE OF SERVICE

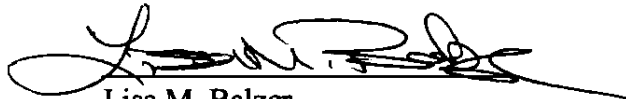
I, Lisa M. Balzer, a secretary in the law firm of Vinson & Elkins, LLP. do hereby certify that I have on this 26th day of March, 2004, caused to be mailed by first class mail, postage prepaid, copies of the foregoing "Supplement to Joint Motion to Sever and Request for Expedited Action" to the following:

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